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राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 12 अप्रैल, 1975/22 चैत्र, 1897

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-4, the 25th March, 1975

No. 1-40/75-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative

Assembly, 1973 the Himachal Pradesh Tolls Bill, 1975 (Bill No. 22 of 1975) having been introduced in the Legislative Assembly on the 25th March, 1975, is hereby published in the Government Gazette.

S. S. KANWAR,
Secretary.

Bill No. 22 of 1975.

THE HIMACHAL PRADESH TOLLS BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the levy and collection of tolls on mechanical vehicles crossing barriers in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Tolls Act, 1975.
- (2) It shall extend to the whole of Himachal Pradesh.
- (3) It shall come into force at once.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

Definitions:

- (a) “barrier” means a barrier established under section 6 of this Act;
- (b) “mechanical vehicle” means any laden or unladen vehicle designed to be driven under its own power including a motor vehicle as defined in clause (18) of section 2 of the Motor Vehicles Act, 1939, but does not include a cart or bicycle;
- (c) “notification” means notification published under proper authority in the Official Gazette;
- (d) “Official Gazette” means the Rajpatra, Himachal Pradesh;
- (e) “State Government” or “Government” means the Government of Himachal Pradesh; and
- (f) “toll Inspector” means the person authorised by the State Government to collect toll in respect of any mechanical vehicle crossing a barrier and includes every Government servant posted at a barrier in connection with the collection of toll.

4 of 1939

3. (1) There shall be levied and paid to the State Government on every mechanical vehicle specified in column (2) of the Schedule to this Act, crossing a barrier, a toll at the rate specified against each mechanical vehicle in column (3) thereof.

Rate of toll
and its pay-
ment.

(2) The Government shall have the power to amend, by notification, the Schedule, provided that the rates of tolls specified in column (3) of the Schedule shall not be enhanced by more than 50 % of the rates given therein on the commencement of the Act.

(3) Every person in charge of mechanical vehicle for crossing a barrier shall pay to the toll Inspector posted at the barrier the toll and shall obtain a receipt from him in token of having paid the amount specified therein.

(4) The mechanical vehicle, which has paid toll under sub-section (3) at any barrier in the State, shall not be required to pay toll again while crossing any other barrier established under this Act within a period of 24 hours.

Servants etc.,
to be public
servants.

4. All persons appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Power of
toll inspec-
tor.

5. The driver of a mechanical vehicle shall cause the vehicle to stop when required to do so by the toll Inspector to enable him to carry out any of the duties imposed on him under this Act.

Establish-
ment of
barriers.

6. The State Government may, from time to time, by notification in the Official Gazette, establish or remove barriers on any road which has been, or shall hereafter be, made or repaired at the expense of the State Government.

Exhibition
of table of
tolls and
statement of
penalties.

7. A table of the tolls authorised to be taken at any barrier shall be put in a conspicuous place near such barrier legibly written or printed in Hindi and English words and figures, to which shall be annexed, written or printed in like manner, a statement of penalties for refusing to pay the tolls and for taking unlawfully any toll.

Assistance to
toll Inspec-
tors by police
officers.

8. All police officers shall be bound to assist the Toll Inspectors, when required, in the execution of this Act; and, for that purpose, shall have the same powers which they have in the exercise of their ordinary police duties.

Procedure in
case of non-
payment of
toll.

9. In case of non-payment of such toll on demand, the person appointed to collect the same may detain the mechanical vehicle or seize any of the goods or part of burden or load of sufficient value to defray the toll and sell the same, unless the toll is paid.

Application
of proceeds
of tolls.

10. The tolls levied under this Act shall be deemed to be public revenue.

Penalties.

11. (1) Whosoever—

- (a) attempts to cross any barrier without compliance with the provisions of this Act, or
- (b) contravenes any other provision of this Act or the rules made thereunder or any order or direction made under any such provision or rule,

shall be liable, on conviction, to a fine which may extend to two hundred rupees.

(2) No magistrate shall take cognizance of any offence under this Act except on a complaint in writing, made by the Toll Inspector.

Bar to
proceedings.

12. No suit, prosecution or other legal proceeding shall lie against any person, authorised to act by or under this Act, for anything done, or purporting to have been made, in good faith, under this Act or the rules made thereunder.

Saving.

13. Nothing contained in this Act shall apply to the mechanical vehicles belonging to the President, the Vice-President, the Ministers, the Speaker and Defence Services, of the Union of India and the mechanical vehicles belonging to Diplomatic Core and the Himachal Pradesh Government.

Power to
make rules,

14. (1) The State Government may, by notification in the Official Gazette, make rules consistent with this Act, for securing the levy and collection of toll and generally for carrying out the purposes of this Act.

- (2) Every rule made under this act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of not less than fourteen days which may comprise in one session or in two or more successive sessions, and if, before the expire of this session in which it is so laid or sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

(See section 3)

RATES OF TOLL

Sl. No.	Particulars or the type of mechanical vehicle on which toll is leviable	Rate
1	2	3
1.	Truck:	
	(a) Laden	Rs. 3
	(b) Unladen	Rs. 2
2.	Bus:	
	(a) Laden	Rs. 3
	(b) Unladen	Rs. 2
3.	Tractor with trailer :	
	(a) Laden	Rs. 3
	(b) Unladen	Rs. 2
4.	Light Motor Vehicle such as Jeep, Car, Pickup Van, Tractor, Station Wagon, Delivery Van, Tempo, Motor Rickshaw, Scooter Rickshaw.	Rs. 2
5.	Motor Cycle, Scooter (with or without side car)	Re. 1
6.	Any other mechanical vehicle not herein provided for.	Rs. 3

STATEMENT OF OBJECTS AND REASONS

With a view to speeding up the pace of development in the State and to find resources in respect thereof, it is proposed to have a law, and this Bill seeks to achieve that objective.

RAM LAL,
Minister-in-charge.

SIMLA:
The 12th March, 1975.

FINANCIAL MEMORANDUM

It is intended to notify and establish approximately fifteen barriers under this Act. After all such barriers are so notified and established, the estimated expenditure on such barriers would be about Rs. 4.50 lacs and approximate income therefrom would be Rs. 9 lacs per annum.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 14(1) of the Bill empowers the Government to make rules consistent with this Bill, for securing the levy and collection of toll and generally for carrying out the purpose of this Bill. These rules shall, as soon as may be after these are made, be laid before the Legislative Assembly. This delegation is essential for the effective implementation of the provision of the Bill and is normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[PWD File No. 2-1/75-PW(B)]

The Governor, Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Tolls Bill, 1975, recommends under Article 207 of the Constitution of India the introduction and consideration of the said Bill in the Legislative Assembly.

Simla-4, the 25th March, 1975

No. 1-41/75-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973 the Himachal Pradesh Repealing Bill, 1975 (Bill No. 21 of 1975) having been introduced in the Legislative Assembly on the 25th March, 1975, is hereby published in the Government Gazette.

S. S. KANWAR,
Secretary.

Bill No. 21 of 1975.

THE HIMACHAL PRADESH REPEALING BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**A
BILL**

to repeal certain enactments.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India, as follows:—

1. This Act may be called the Himachal Pradesh Repealing Act, 1975. Short title.
2. The enactments specified in the Schedule are hereby repealed. Repeal of certain enactments.
3. The repeal by this Act of any enactment shall not,— Savings.
 - (a) affect any other enactment in which the repealed enactment has been applied, incorporated or referred to; or
 - (b) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force; or
 - (c) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
 - (d) affect any right, title, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
 - (e) affect any remedy or proceeding in respect thereof, or any release or discharge of, or from, any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing under any enactment so repealed; or
 - (f) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same, respectively, may have been in any manner affirmed, or recognised or derived by, in or from any enactment hereby repealed; or
 - (g) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
 - (h) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

THE SCHEDULE

(See section 2)

Year 1	Number 2	Short title 3	Extent of repeal 4
1883	20	The Punjab District Boards Act, 1883 in its application to the State of Himachal Pradesh.	The whole.
1916	1	The Punjab Military Transport Act, 1916 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1927	3	The Punjab District Boards (Tax Validating) Act, 1927 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1947	9	The East Punjab Local Authorities (Restrictions of Functions) Act, 1947 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1948	13	The East Punjab (Exchange of Prisoners) Act, 1948 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1948	29	The East Punjab Special Tribunal (Continuance) Act, 1948 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1949	10	The East Punjab Damaged Areas Act, 1949 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1949	15	The East Punjab Conservation of Manure Act, 1949 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1949	19	The East Punjab Improved Seeds and Seedlings Act, 1948 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1950	10	The Punjab Special Tribunal (Change of Composition) Act, 1950 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1950	12	The Punjab Local Authorities (Provision of Stalls for Displaced Persons) Act, 1950 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1951	7	The Punjab Forward Contracts Tax Act, 1951 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.

1	2	3	4
1951	10	The Punjab Development of Damaged Areas Act, 1951 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1953	40	The Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1955	27	The Punjab District Boards (Tax Validating) Act, 1955 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1956	31	The Scheduled Areas Traders (Facilities for Loans) Act, 1956 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1957	8	The Industrial Disputes (Punjab Amendment) Act, 1957 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1957	9	The Industrial Disputes (Amendment and Miscellaneous Provisions) (Punjab Amendment) Act, 1957 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1958	8	The Punjab Textiles and Sugar (Existing Stocks) Purchase Tax and Miscellaneous Provisions Act, 1958 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1959	22	The Punjab Local Authorities (Aided Schools) Act, 1959 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1959	27	The Punjab Co-operative Sugar Mills (Further Extension of Tanure of Boards) Act, 1959 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1959	34	The Essential Commodities (Punjab Amendment) Act, 1959 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1960	25	The Punjab Non-Trading Companies Act, 1960 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1969	18 of 1970.	The Himachal Pradesh Surcharge on Purchase of Forest Produce Act, 1969 as in force in the State of Himachal Pradesh.	The whole.

STATEMENT OF OBJECTS AND REASONS

There are certain Acts (as specified in the Schedule to this Bill) which are no longer required either because these have no utility in Himachal Pradesh or have become obsolete. Acts No. 20 of 1883, 3 of 1927 and 27 of 1955 are not needed for the reason that there are no District Boards in the State of Himachal Pradesh. After the enactment of the Defence of India Act, 1971 and framing of Rules thereunder, the Punjab Act No. 1 of 1916 has become redundant. Acts No. 9 of 1947 and 12 of 1950 are not needed for the reason that there is at present no influx of refugees *i.e.* (Displaced Persons) from Pakistan. Act No. 13 of 1948 was to provide for the exchange of prisoners with Punjab in Pakistan on the eve of the partition of the country. At present there is no such problem. Acts No. 29 of 1948 and 10 of 1950 are infructuous for the reason that the Criminal Law Amendment Ordinance, 1943, which was amended by the aforesaid Acts, has been repealed by the Central Act No. 36 of 1957. As such these enactments are required to be repealed. Acts No. 10 of 1949 and 10 of 1951 were enacted to tackle the problem of salvage and disposal of property and clearance of debris in riot stricken urban areas on the eve of the partition of the country. Now no such problem exists. Act No. 15 of 1949 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 provides for the conservation of manure. But there is no such corresponding law in the areas as comprised in Himachal Pradesh immediately before the 1st November, 1966. This enactment is of no practical use. As such the repeal of this Act is to bring about the uniformity of Laws in this Pradesh. With the enactment of Central Act *i.e.* the Seeds Act, 1966 (Act 54 of 1966), the Punjab Act No. 19 of 1949 has become redundant. Act No. 7 of 1951 is infructuous for the reason that it was declared void and unconstitutional by the Supreme Court and was not, therefore, implemented in Punjab. Since there is no Sugarcane Factory in the areas transferred to Himachal Pradesh from Punjab State where the provisions of Acts No. 40 of 1953 and 27 of 1959 are in force. In light of this, this Act is not required to be retained on the Statute Book. Act No. 31 of 1956 provides for the advancing of loans in the Lahaul and Spiti district to meet the situation ensued from the heavy snow fall in October, 1955. The loans advanced thereunder have been recovered. There is now no necessity to retain this Act on the Statute Book. Acts No. 8 and 9 of 1957 makes the amendments in the Central enactment *i.e.* the Industrial Disputes Act, 1947 and these are in force in merged areas. These amended provisions are no longer required. Act No. 8 of 1958 is also infructuous, since it has died its own death after the assessment of the stocks in hand as on 13-12-1957 had been made in Punjab. Act No. 22 of 1959 is not needed for the reason that the Local Bodies Schools have now been provincialised in these areas of Himachal Pradesh. Act No. 34 of 1959 has also become infructuous for the reason that the relevant provisions have already been incorporated in the principal Act, through the Central Amending Act No. 25 of 1966. Act No. 25 of 1960 has no utility as the Companies which would be covered thereby are non-existent in Himachal Pradesh. Act No. 18 of 1970 was enacted to augment the finances of the State by levying a surcharge on all purchases of forest produce as may be specified in the Schedule to the said Act. It was estimated that an annual income of Rs. 14 lacs would accrue to the State Exchequer. Later on it has been noticed that the surcharge on the forest produce will not in any way augment the resources of the Pradesh. When this levy is enforced, the prices obtained by the sale of forest produce will decrease to the extent of the burden of the levy and will face hard competition in market. The collection of levy on the other hand would have drained out the State finances to a considerable extent. For these reasons the said Act was not brought into operation. In view of this it is decided to repeal this Act.

All the above Acts are required to be repealed by an enactment and this Bill seeks to achieve the aforesaid purpose.

SIMLA:

The 14th March, 1975.

RAM LAL,
Minister-in-charge.

Simla-4, the 25th March, 1975

No. 1-37/75-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Motor Spirit (Taxation of Sales) (Amendment) Bill, 1975, (Bill No. 12 of 1975) having been introduced in the Legislative Assembly on the 25th March, 1975, is hereby published in the Government Gazette.

S. S. KANWAR,
Secretary.

Bill No. 12 of 1975.

THE HIMACHAL PRADESH MOTOR SPIRIT (TAXATION OF SALES) (AMENDMENT) BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Himachal Pradesh Motor Spirit (Taxation of Sales) Act, 1968 (Act No. 10 of 1968).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Motor Spirit (Taxation of Sales) (Amendment) Act, 1975.

Short title
and com.
mencement.

(2) It shall come into force at once.

2. (1) In section 20 of the Himachal Pradesh Motor Spirit (Taxation of Sales) Act, 1968, hereinafter referred to as the principal Act, in the penultimate line, before the word "orders" the word "written" shall be inserted.

Amendment
of section
20.

3. In section 24 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

Amendment
of section
24.

“(5) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of not less than 14 days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, provided, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

STATEMENT OF OBJECTS AND REASONS

Under section 20, the powers of the Government to appoint any person or to invest any person with any authority prescribed by the Act can be exercised by the Excise and Taxation Commissioner, subject to the orders of the Government. It is proposed to alter the reference to orders by written orders. It is also proposed to insert provision regarding laying of the rules framed under the Act before the Legislative Assembly by inserting a new sub-section (5) under section 24 of the Act.

This Bill seeks to achieve the aforesaid objects.

LAL CHAND PRARTHI,
Minister-in-charge.

SIMLA:
The 12th March, 1975.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Simla-4, the 26th March, 1975

No. 1-43/75-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly 1973, the Himachal Pradesh Ancient and Historical Monuments and Archaeological Sites and Remains Bill, 1975 (Bill No. 18 of 1975), having been introduced in the Legislative Assembly on the 26th March, 1975, is hereby published in the Government Gazette.

S.S. KANWAR,
Secretary.

Bill No. 18 of 1975.

**THE HIMACHAL PRADESH ANCIENT AND HISTORICAL
MONUMENTS AND ARCHAEOLOGICAL SITES AND
REMAINS BILL, 1975**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the preservation of ancient and historical monuments, archaeological sites and remains other than those of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1975.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may by notification appoint.

2. In this Act, unless the context otherwise requires,—

Definitions

(a) 'ancient and historical monuments' means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock-sculpture, inscription or menolith, which is of historical, archaeological or artistic interest and which has been in existence for not less than one hundred years and includes—

(i) the remains of an ancient and historical monument,

(ii) the site of an ancient and historical monument,

(iii) such portion of land adjoining the site of an ancient and historical monument as may be required for fencing or covering in or otherwise preserving such monument, and

(iv) the means of access to, and convenient inspection of, an ancient and historical monument; but

does not include any ancient and historical monument declared by or under law made by Parliament to be of national importance;

(b) 'antiquity' includes—

(i) any coin, sculpture, manuscript, epigraph or other work of art or craftsmanship,

(ii) any article, object or thing detached from a building or cave,

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in by-gone ages,

(iv) any article, object or thing of historical interest, and

- (v) any article, object or thing declared by the Government by notification to be an antiquity for the purposes of this Act, which has been in existence for not less than one hundred years;
- (c) 'archaeological officer' means an officer of the Government appointed for the purpose of exercising the powers conferred on, and performing the functions assigned to, an archaeological officer under this Act, and includes any other officer authorised by the Government to exercise and perform all or any of such powers and functions;
- (d) 'archaeological sites and remains' means any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance which have been in existence for not less than one hundred years, and includes—
 - (i) such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it, and
 - (ii) the means of access to, and convenient inspection of, the area; but does not include any archaeological site or remains declared by or under law made by Parliament to be of national importance;
- (e) 'director' means the Director of Archaeology and includes any other officer authorised by the Government to exercise the powers and perform the functions of the Director under this Act;
- (f) 'Government' means the Government of Himachal Pradesh;
- (g) 'maintain' with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and organising of a protected monument, and the doing of any act which may be necessary for the purpose of preserving a protected monument or for securing convenient access thereto;
- (h) 'owner' includes—
 - (i) a joint owner invested with powers of management on behalf of himself and other joint owners and the successor-in-title of any such owner, and
 - (ii) any manager or trustee exercising powers of management and the successor-in-office of any such manager or trustee;
- (i) 'prescribed' means prescribed by rules made under this Act;
- (j) 'protected area' means any archaeological site and remains which is declared to be a protected area by or under this Act; and
- (k) 'protected monument' means an ancient or historical monument which is declared to be a protected monument by or under this Act.

PROTECTION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS

Certain ancient and historical monuments, etc. deemed to be protected monuments or areas.

3. All ancient and historical monuments and all archaeological sites and remains which have been declared by the Ancient Monuments Preservation Act, 1904 to be protected monuments or protected areas respectively, but which have not been declared by or under the law made by Parliament to be of national importance, shall be deemed to be ancient and historical monuments or archaeological sites and remains declared to be protected monuments or areas for the purposes of this Act.

4. (1) Where the Government is of opinion that any ancient and historical monument or archaeological site and remains, which has not been declared by or under the law made by Parliament to be of national importance and which is not included in section 3 requires protection under this Act, it may by notification give two months' notice of its intention to declare such ancient and historical monument or archaeological site and remains to be a protected monument or protected area, as the case may be, and a copy of every such notification shall be affixed in a conspicuous place near the monument or the site and remains, as the case may be.

Power of Government to declare ancient monuments etc. to be protected monuments and areas.

(2) Any person interested in any such ancient and historical monument or archaeological site and remains may, within two months after the issue of the notification under sub-section (1), object to the declaration of the monument or the archaeological site and remains to be a protected monument or a protected area.

(3) On the expiry of the said period of two months the Government may, after considering the objection, if any, received by it, declare by notification the ancient and historical monument or the archaeological site and remains, as the case may be, to be a protected monument or a protected area.

(4) A notification published under sub-section (3) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient and historical monument or the archaeological site and remains to which it relates is a protected monument or a protected area for the purposes of this Act.

PROTECTED MONUMENTS

5. (1) The Director may, with the sanction of the Government, purchase, or take a lease of, or accept a gift, or bequest of, any protected monument.

Acquisition of rights in a protected monument.

(2) Where a protected monument is without an owner, the Director may by notification assume the guardianship of the monument.

(3) The owner of any protected monument may, by written instrument, constitute the Director the guardian of the monument, and the Director may, with the sanction of the Government, accept such guardianship.

(4) When the Director has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Director had not been constituted a guardian thereof, and the provisions of this Act relating to agreements executed under section 6 shall apply to the written instrument executed under sub-section (3).

(5) Nothing in this section shall affect the use of any protected monument for customary religious observances.

6. (1) The Director, when so directed by the Government, shall propose to the owner of a protected monument to enter into an agreement with the Government within a specified period for the maintenance of the monument.

Preservation of protected monument by agreement.

(2) Any agreement under this section may provide for all or any of the following matters, namely:—

(a) the maintenance of the monument;

- (b) the custody of the monument and the duties of any person who may be employed to watch it;
- (c) the restriction of the owner's right—
 - (i) to use the monument for any purpose,
 - (ii) to charge any fee for entry into, or inspection of, the monument,
 - (iii) to destroy, remove, alter or deface the monument, or
 - (iv) to build on or near the site of the monument;
- (d) the facilities of access to be permitted to the public or any section thereof or to archaeological officers or to persons deputed by any archaeological officer or other officer or authority authorised by the Government to inspect or maintain the monument;
- (e) the notice to be given to the Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the Government to purchase such land, or any specified portion of such land, at its market value;
- (f) the payment of any expenses incurred by the owner or by the Government in connection with the maintenance of the monument;
- (g) the proprietary or other rights which are to vest in the Government in respect of the monument when any expenses are incurred by the Government in connection with the maintenance of the monument;
- (h) the appointment of an authority to decide any dispute arising out of the agreement; and
- (i) any matter connected with the maintenance of the monument which is a proper subject of agreement between the owner and the Government.

(3) The Government or the owner may, at any time, after the expiration of three years from the date of execution of any agreement under this section, terminate it on giving six months' notice in writing to the other party:

Provided that where the agreement is terminated by the owner, he shall pay to the Government the expenses, if any, incurred by it on the maintenance of the monument during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter period, during the period the agreement was in force.

(4) An agreement under this section shall be binding on any person claiming to be the owner of the monument to which it relates, from, through or under a party by whom or on whose behalf the agreement was executed.

Persons competent to exercise powers of owner under section 6 in respect of a protected monument, when owner is under disability or when it is a village property.

7. (1) If the owner of a protected monument is unable, by reason of minority or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 6.

(2) In the case of a protected monument which is a village property, the Panchayat for the village where such property vests in the Panchayat or, where such property does not vest in a Panchayat any village officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 6.

(3) Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any

part of which is periodically used for the religious worship or observances of that religion.

8. (1) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others the Government may institute a suit in the court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge, for the proper application of such endowment or part thereof.

Application of endowment to repair a protected monument.

(2) On the hearing of an application under sub-section (1), the District Judge may, summon and examine the owner and any person whose evidence appears to him necessary and may pass an order for the proper application of the endowment or any part thereof, and any such order may be executed as if it were a decree of a civil court.

9. (1) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, the Government may make an order providing for all or any of the matters specified in sub-section (2) of section 6, and such order shall be binding on the owner or such other person and on every person claiming title to the monument from, through or under, the owner or such other person.

Failure or refusal to enter into an agreement.

(2) Where an order made under sub-section (1) provides that the monument shall be maintained by the owner or other person competent to enter into an agreement, all reasonable expenses for the maintenance of the monument shall be payable by the Government.

(3) No order under sub-section (1) shall be made unless the owner or other person has been given an opportunity of making a representation in writing against the proposed order.

10. (1) If the Director apprehends that the owner or occupier of a protected monument intends to destroy, remove, alter, deface, imperil or misuse the monument or to build on or near the site thereof in contravention of the terms of an agreement executed under section 6, the Director may, after giving the owner or occupier an opportunity of making a representation in writing, make an order prohibiting any such contravention of the agreement:

Power to make order prohibiting contravention of agreement under section 6.

Provided that no such opportunity may be given in any case where the Director, for reasons to be recorded, is satisfied that it is not expedient or practicable to do so.

(2) Any person aggrieved by an order made under this section may appeal to the Government within such time and in such manner as may be prescribed and the decision of the Government shall be final.

11. (1) If an owner or other person who is bound to maintain a monument by an agreement executed under section 6 refuses or fails, within such reasonable time as the Director may fix, to do any such act which in the opinion of the Director is necessary for the maintenance of the monument, the Director may authorise any person to do any such act, and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement.

Enforcement of agreement.

(2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the Government whose decision on such reference shall be final.

Purchases at certain sales and persons claiming through owner bound by instrument executed by owner.

12. Every person who purchases, at a sale for arrears of land revenue or any other public demand, any land on which is situated a monument in respect of which any instrument has been executed by the owner for the time being under section 5 or section 6, and every person claiming any title to a monument from, through or under an owner who executed any such instrument shall be bound by such instrument.

Acquisition of protected monument.

13. If the Government apprehends that a protected monument is in danger of being destroyed, injured, misused or allowed to fall into decay, it may acquire the protected monument under the provisions of the Land Acquisition Act, 1894, as if the maintenance of the protected monument were a public purpose within the meaning of that Act.

1 of 18

Maintenance of certain protected monuments.

14. (1) The Government shall maintain every monument which has been acquired under section 13 or in respect of which any of the rights mentioned in section 5 have been acquired.

(2) When the Director has assumed the guardianship of a monument under section 5 he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself or by his agent, subordinates and workmen, for the purpose of inspecting the monument or for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

Voluntary contributions.

15. The Director may receive voluntary contributions towards the cost of maintaining a protected monument and may give such general or special directions as he considers necessary for the management and application of the contributions so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

Protection of place of worship from misuse, pollution or desecration.

16. (1) A protected monument maintained by the Government under this Act which is a place of worship or shrine shall not be used for any purpose inconsistent with its character.

(2) Where the Government has acquired a protected monument under section 13, or where the Director has purchased or taken a lease or accepted a gift or bequest or assumed guardianship, of a protected monument under section 5, and such monument or any part thereof is used for religious worship or observances by any community, the Director shall make due provision for the protection of such monument or part thereof from pollution or desecration:—

(a) by prohibiting the entry therein except in accordance with the conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or

- (b) by taking such other action as he may think necessary in this behalf.

17. With the sanction of the Government, the Director may—

- (a) where rights have been acquired by the Director in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish by notification the rights so acquired to the person who would for the time being be the owner of the monument as if such rights had not been acquired; or
(b) relinquish any guardianship of a monument which he has assumed under this Act.

Relinquish-
ment of Go-
vernment
rights in a
monument.

18. Subject to any rules made under this Act, the public shall have a right of access to any protected monument.

Rights of
access to
protected
monuments.

PROTECTED AREAS

19. (1) No person, including the owner or occupier of a protected area shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting, or any operation of a like nature in such area or utilise such area or any part thereof in any other manner without the permission of the Government:

Restrictions
on enjoy-
ment of
proprietary
rights in
protected
areas.

Provide that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for the purposes of cultivation if such cultivation does not involve the digging of not more than one foot of soil from the surface.

(2) The Government may by order direct that any building constructed by the person within a protected area in contravention of the provisions of sub-section (1) shall be removed within a specified period and, if the person refuses or fails to comply with the order, the Director may cause the building to be removed and the person shall be liable to pay the cost of such removal.

20. If the Government is of opinion that any protected area contains any ancient and historical monument or antiquity of any interest and value, other than national interest and value, it may acquire such area under the provisions of the Land Acquisition Act, 1894 as if the acquisition were for a public purpose within the meaning of that Act.

Power to
acquire pro-
tected areas.

1 of 1894

ARCHAEOLOGICAL EXCAVATIONS

24 of 1958 21. Subject to the provisions of section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 an archaeological officer or an officer authorised by him in this behalf or any person holding a licence granted in this behalf under this Act (hereinafter referred to as the licensee) may, after giving notice in writing to the Director and the owner, enter upon and make excavations in any protected area.

Excavations
in protect-
ed areas.

24 of 1958 22. Subject to the provisions of section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 where an archaeological officer has reason to believe that any area, not being a protected area contains ruins or relics of historical or archaeological importance, he or

Excavations
in areas
other than
protected
areas.

an officer authorised by him in this behalf may, after giving notice in writing to the Director and the owner, enter upon and make excavations in the area.

Compulsory purchase of antiquities, etc., discovered during excavation operations.

23. (1) Where, as a result of any excavations made in any area under section 21 or section 22, any antiquities are discovered the archaeological officer or the licensee as the case may be, shall;—

(a) as soon as practicable examine such antiquities and submit a report to the Government in such manner and containing such particulars as may be prescribed;

(b) at the conclusion of the excavation operations, give notice in writing to the owner of the land from which such antiquities have been discovered, as to the nature of such antiquities.

(2) Until an order for the compulsory purchase of any such antiquities is made under sub-section (3), the archaeological officer or the licensee, as the case may be, shall keep them in such safe custody as he may deem fit.

(3) On receipt of a report under sub-section (1), the Government may make an order for the compulsory purchase of any such antiquities at their market value.

(4) When an order for the compulsory purchase of any antiquities is made under sub-section (3), such antiquities shall vest in the Government with effect from the date of the order.

Excavations etc., for archaeological purposes.

24. Subject to the provisions of section 21 and save as provided in sections 22 and 23, no archaeological officer or other authority shall undertake or authorise any person to undertake, any excavation or other like operation for archaeological purposes in any area which is not a protected area except with the previous approval of the Government and in accordance with such rules or directions, if any, as the Government may make or give in this behalf.

PROTECTION OF ANTIQUITIES

Power of Government to control moving of antiquities.

25. (1) If the Government considers that any antiquities or class of antiquities ought not to be moved from the place where they are without its sanction, the Government may by notification direct that any such antiquity or any class of such antiquities shall not be moved except with the written permission of the Director.

(2) Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed.

(3) Any person aggrieved by an order refusing permission may appeal to the Government whose decision shall be final.

Purchase of antiquities by Government.

26. (1) If the Government apprehends that any antiquity mentioned in a notification issued under sub-section (1) of section 25, is in danger of being destroyed, removed, injured, misused or allowed to fall into decay or is of opinion that, by reason of its historical or archaeological importance, it is desirable to preserve such antiquity in a public place,

the Government may make an order for the compulsory purchase of such antiquity at its market value and the Director shall thereupon give notice to the owner of the antiquity to be purchased.

(2) Where a notice of compulsory purchase is issued under sub-section (1) in respect of any antiquity, such antiquity shall vest in the Government with effect from the date of the notice.

(3) The power of compulsory purchase given by this section shall not extend to any image or symbol actually used for bonafide religious observances.

PRINCIPLES OF COMPENSATION

27. Any owner or occupier of land who has sustained any loss or damage or any diminution of profits from the land by reason of any entry on, or excavations in, such land or the exercise of any other power conferred by this Act, shall be paid compensation by the Government for such loss, damage or diminution of profits.

Compensation for loss or damage.

28. (1) The market value of any property which the Government is empowered to purchase at such value under this Act, or the compensation to be paid by the Government in respect of anything done under this Act, shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in sections 3, 5, 8 to 34, 45 to 47, 51 and 52 of the Land Acquisition Act, 1894, so far as they can be made applicable:

Assessment of market value or compensation.

1 of 1894

Provided that when making an enquiry under the said Land Acquisition Act, the Collector shall be assisted by two assessors one of whom shall be competent person nominated by the Government and one person nominated by the owner, or, in case the owner fails to nominate an assessor within such time as may be fixed by the Collector in this behalf, by the Collector.

(2) Notwithstanding anything in sub-section (1) or in the Land Acquisition Act, 1894 in determining the market value of any antiquity in respect of which an order for compulsory purchase is made under sub-section (3) of section 23 or under sub-section (1) of section 26, any increase in the value of the antiquity by reasons of its being of historical or archaeological importance shall not be taken into consideration.

1 of 1894

MISCELLANEOUS

29. The Government may by notification direct that any powers conferred on it by or under this Act shall, subject to such conditions as may be specified in the direction, be exercisable also by such official or authority subordinate to the Government as may be specified in the direction.

Delegation of powers.

30. (1) Whoever—

Penalties

(i) destroys, removes, injures, alters, defaces, imperils or misuses a protected monument, or

(ii) being the owner or occupier of a protected monument, contravenes an order made under sub-section (1) of section 9 or under sub-section (1) of section 10, or

(iii) removes from a protected monument any sculpture, carving, image, bas-relief, inscription of other like objects, or

(iv) does any act in contravention of sub-section (1) of section 19, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

(2) Any person who moves any antiquity in contravention of a notification issued under sub-section (1) of section 25, shall be punishable with fine which may extend to five thousand rupees, and the court convicting a person of any such contravention may, by order, direct such person to restore the antiquity to the place from which it was moved.

Jurisdiction to try offences. 31. No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

Certain offences to be cognizable. 32. Notwithstanding anything in the Code of Criminal Procedure, 1973, an offence under clause (i), or clause (iii) of sub-section (1) of section 30, shall be deemed to be a cognizable offence within the meaning of that Code.

2 of 1974

Recovery of amount due to the Government. 33. Any amount due to the Government from any person under this Act may, on a certificate issued by the Director or an Archaeological officer authorised by him in this behalf, be recovered in the same manner as an arrear of land revenue.

Ancient monuments, etc. no longer requiring protection. 34. If the Government is of opinion that it is no longer necessary to protect any ancient or historical monument or archaeological site and remains under the provisions of this Act, it may by notification declare that the ancient and historical monument or archaeological site and remains, as the case may be, has ceased to be a protected monument or a protected area for the purposes of this Act.

Power to correct mistakes. 35. Any clerical mistake, patent error or error arising from accidental slip or omission in the description of any ancient and historical monument or archaeological site and remains declared to be protected monument or a protected area, by or under this Act may, at any time, be corrected by the Government by notification.

Protection of action taken under the Act. 36. No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Act.

Power to make rules. 37. (1) The Government may, by notification and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the prohibition or regulation by licensing or otherwise of mining, quarrying, excavating, blasting or any operation of a like nature near a protected monument or the construction of building on a

land adjoining such monument and the removal of un-authorised buildings;

- (b) the grant of licences and permissions to make excavations for archaeological purposes in protected areas, the authorities by whom, and the restrictions and conditions subject to which, such licences may be granted, the taking of securities from licensees and the fees that may be charged for such licences;
- (c) the right of access of the public to a protected monument and the fee, if any, to be charged therefor;
- (d) the form and contents of the report of an archaeological officer or a licensee under clause (a) of sub-section (1) of section 23;
- (e) the form in which applications for permission under section 19 or section 25 may be made and the particulars which they shall contain;
- (f) the form and manner of preferring appeals under this Act, the fees to be paid therefor and the time within which they may be preferred;
- (g) the manner of service of any order or notice under this Act;
- (h) the manner in which excavations and other like operations for archaeological purposes may be carried on;
- (i) any other matter which is to be or may be prescribed.

(3) Any rule made under this section may provide that a breach thereof shall be punishable;

- (i) in the case of rule made with reference to clause (a) of sub-section (2), with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both;
- (ii) in the case of a rule made with reference to clause (b) of sub-section (2), with fine which may extend to five hundred rupees;
- (iii) in the case of a rule made with reference to clause (c) of sub-section (2), with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

38. (1) The Ancient Monuments Preservation Act, 1904 shall cease to have effect in relation to ancient and historical monuments and archaeological sites and remains declared or deemed to be declared by or under this Act to be protected monuments or protected areas, except as respects things done or omitted to be done before the commencement of this Act.

(2) The Punjab Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1964 as in force in the areas added to Himachal Pradesh, under section 5 of the Punjab Reorganisation Act, 1966 is hereby repealed:

20 of 1964

31 of 1966

Provided that anything done or any action taken, including rules made, notifications issued or proceedings commenced or continued under the provisions of the Act hereby repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

(3) Nothing in this Act shall apply to ancient and historical monuments or archaeological sites and remains declared by or under law made by the Parliament to be of national importance or to any antiquities to which the Ancient Monuments and Archaeological Sites and Remains Act, 1958, applies.

24 of 1958

STATEMENT OF OBJECTS AND REASONS

For preservation and protection of monuments and sites of 'Regional and Local Importance' the States have their own Acts. In Punjab also, there is a similar Act called "the Punjab Ancient and Historical and Archaeological Sites and Remains Act, 1964" which is still in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966.

As for the areas which comprised in Himachal Pradesh immediately before the 1st November, 1966 there is no such State law in force for the protection and preservation of monuments and sites of 'Local and Regional Importance.' This Bill seeks to achieve the aforesaid object.

SIMLA:
The 12th March, 1975.

LAL CHAND PRARTHI,
Minister-in-charge.

FINANCIAL MEMORANDUM

For the implementation of various provisions of the Bill an amount of Rs. 50,000 would be required for the maintenance of ancient and historical monuments every year besides a sum of Rs. 25,000 is estimated to be spent towards the payment of compensation for acquisition of and upkeep and maintenance of such monuments etc. every year. The staff required for the implementation of the proposed Legislation would cost another sum of Rs. 75,000 annually. Thus the total recurring annual expenditure is estimated at Rs. 1.5 lacs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 37 (1) of the Bill empowers the Government to make rules in respect of the matters enumerated therein. The proposed delegation is normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION

(File No. WLF-A(3)-5/75-B of the Language and Cultural Affairs Department.)

The Governor, Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Ancient and Historical Monuments and Archaeological Sites and Remains Bill, 1975, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

Simla-4, the 26th March, 1975

No. 1-39/75-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, The Himachal Pradesh Now Towns (Periphery) Control Bill, 1975 (Bill No. 15 of 1975), having been introduced in the Legislative Assembly on the 26th March, 1975, is hereby published in the Government Gazette.

S. S. KANWAR,
Secretary.

Bill No. 15 of 1975.

THE HIMACHAL PRADESH NEW TOWNS (PERIPHERY) CONTROL BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to check mushroom growth and ribbon-like development along road sides of towns, colonies and dams as well as their peripheries in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh New Towns (Periphery) Control Act, 1975.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. (1) The provisions of this Act shall apply to the area adjacent to and within a distance of two miles all sides of the outer boundary of the land acquired for a town, dam or colony specified in the Schedule.

Operation of
Act.

(2) At any time after the commencement of this Act, the State Government may from time to time, by notification,—

(a) include any town, dam or colony in the Schedule and thereupon the provisions of this Act shall apply to such town, dam or colony;

(b) exclude from the operation of this Act any town, dam or colony included in the Schedule.

3. In this Act, unless the context otherwise requires,—

Definition.

(1) “agriculture” includes horticulture and planting and upkeep of orchard;

(2) “building” has the same meaning as is assigned to it in clause (2) of section 2 of the Himachal Pradesh Municipal Act, 1968;

(3) “Deputy Commissioner” means, the Deputy Commissioner of the District, in whose jurisdiction the town, dam or colony is situated and includes any person or persons at any time appointed by the State Government to perform all or any of the functions of the Deputy Commissioner under this Act;

(4) “Commissioner” means, the Divisional Commissioner, Himachal Pradesh and includes any person for the time being appointed by the State Government to perform all or any of the functions of the Commissioner under this Act;

(5) “prescribed” means prescribed by rules made under this Act;

(6) “road” means a metalled or unmetalled road, whether a thoroughfare or not, accessible to the public and maintained by the State Government or by a local authority;

(7) the expression "erect or re-erect any building" has the same meaning as is assigned to it in clause (10) of section 2 of the Himachal Pradesh Municipal Act, 1968;

(8) "notification" means notification issued under the authority of the State Government and published in the Rajpatra, Himachal Pradesh;

(9) "State Government" means the Government of Himachal Pradesh;

(10) "schedule" means schedule to this Act.

Declaration
of control-
led area.

4. (1) The State Government may, by notification, declare the whole or any part of the area to which this Act extends to be a controlled area for the purposes of this Act.

(2) Not less than three months before making a declaration under sub-section (1), the State Government shall cause to be published in the Official Gazette, and in at least two newspapers printed in a language other than English, a notification stating that it proposes to make such a declaration and copies of the notification or of the substance thereof shall be published by the Deputy Commissioner in such a manner as may be prescribed at his office and in the area desired to be controlled.

Publication
of plans of
controlled
area.

5. (1) The Deputy Commissioner shall within three months of the declaration under sub-section (1) of section 4 deposit at his office and at such other places as he considers necessary, plans showing the area declared to be controlled area for the purposes of this Act, signifying therein the nature of the restrictions applicable to the controlled area.

(2) The plans so deposited shall be, in the form prescribed and shall be available for inspection by the public free of charge at all reasonable times.

Restrictions
in a contro-
lled area.

6. Except as provided hereinafter, no person shall erect or re-erect any building, or make or extend any excavation or lay out any means of access to a road in the controlled area save in accordance with the plans and restrictions referred to in section 5 and with the previous permission of the Deputy Commissioner.

Application
for permis-
sion and the
grant or re-
fusal of such
permission.

7. (1) Every person desiring to obtain the permission referred to in section 6, shall make an application in writing to the Deputy Commissioner in such form or containing such information in respect of the building, excavation or means of access to which the application relates as may be prescribed.

(2) On receipt of such application the Deputy Commissioner, after making such enquiry as he considers necessary, shall by order in writing either,—

(a) grant the permission subject to such conditions, if any, as may be specified in the order, or

(b) refuse to grant such permission.

(3) When the Deputy Commissioner grants permission subject to conditions, or refuses to grant permission under sub-section (2), the conditions imposed or the grounds of refusal shall be such as are reasonable having regard to the circumstances of each case and the interest of the general public.

(4) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building, if such building is required for purposes subservient to agriculture, nor shall the permission to erect or re-erect any such building be made subject to any conditions other than those which may be necessary to ensure that the building will be used solely for such purposes.

(5) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building which was in existence on the date on which the notification under sub-section (1) of section 4 was made, nor he shall impose any condition in respect of such erection or re-erection unless he is satisfied after hearing the applicant that there is a probability that the building will be used for a purpose or is designed in a manner other than that for which it was used or designed on the date on which the said notification was made.

(6) If at the expiration of a period of three months after an application under sub-section (1) has been made to the Deputy Commissioner, no order in writing has been passed by the Deputy Commissioner, permission shall, without prejudice to the restrictions signified in the plans under section 5, be deemed to have been given without the imposition of any conditions.

(7) The Deputy Commissioner shall maintain a register as may be prescribed with sufficient particulars of all cases in which permission is given or deemed to have been given or refused by him under this section, and the said register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefrom.

8. (1) Any person aggrieved or affected by an order of the Deputy Commissioner under sub-section (2) of section 7, granting permission subject to conditions or refusing permission, may within sixty days from the date of such order prefer an appeal to the Commissioner.

Appeal

(2) The order of the Commissioner on appeal shall be final.

9. A person whose application has been refused or whose application has been granted subject to conditions under sub-section (2) of section 7, shall be entitled to claim compensation within three months of the order of the Deputy Commissioner under section 7 or the order of the Commissioner under section 8, if any, as the case may be, for any injury loss or damage actually suffered on account of the order, in the manner hereinafter provided.

Compensation.

10. (1) An application for compensation shall lie to an arbitrator appointed by the State Government in this behalf.

Arbitration for compensation.

(2) Such arbitrator shall be a District Judge or an Additional District Judge and he shall have all the powers of an arbitrator under the Indian Arbitration Act, 1940, and the provisions of the said Act shall, so far as may be, apply in relation to proceedings before him.

(3) In computing the compensation to be awarded, regard shall not be had to any consideration for advantages to be gained or improvements to be made in any land or building in the controlled area, with reference to their development or intended development in the future, or to increase in value as a result of the development of the towns and colonies or dams area situated in such areas.

(4) The arbitrator shall have power to reject the application after due enquiry or to make an award for compensation.

Saving

11. Nothing in this Act shall affect the power of Government or any other authority to acquire land or to impose restrictions upon the use and development of land comprised in the controlled area under any other law for the time being in force, or to permit the settlement of a claim arising out of the exercise of powers under this Act by mutual agreement.

Prohibition on use of land in controlled area.

12. (1) No land within the controlled area shall, except with the permission of the State Government, be used for purposes other than those for which it was used on the date of notification under sub-section (2) of section 4, and no land shall be used for the purposes of a charcoal-kiln, pottery-kiln, lime-kiln, brick-kiln or brick field except under and in accordance with the conditions of a licence from the Deputy Commissioner on payment of such fees and under such conditions as may be prescribed.

(2) The renewal of such licences may be made annually on payment of such fees as may be prescribed.

(3) No person shall be entitled to claim compensation for any injury, damage or loss caused or alleged to have been caused by the refusal to issue or renew a licence except in case where such kiln was in existence at the time of notification under sub-section (2) of section 4, and in which case an application shall lie to the arbitrator within three months of the order of refusal in the manner provided in section 10.

Offences and penalties.

13. (1) Any person who—

(a) erects or re-erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of the provisions of section 6 or in contravention of any conditions imposed by an order under section 7 or section 8; or

(b) uses any land in contravention of the provisions of sub-section (1) of section 12, shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with a further fine which may extend to fifty rupees for every day after the date of the first conviction during which he is proved to have persisted in the contravention.

(2) Without prejudice to the provisions of sub-section (1), the Deputy Commissioner may order any person who has committed a breach of provisions of the said sub-section to restore to its original state or to bring into conformity with the conditions which have been violated, as the case may be, any building or land in respect of which a contravention such as is described in the said sub-section has been committed, and if such person fails to do so within three months of the order, may himself take such measures as may appear to him to be necessary to give effect to the order and the cost of such measures shall be recoverable from such person as an arrear of land revenue.

Trial of offence.

14. No court inferior to that of a Magistrate of the First Class shall be competent to try any offence, punishable under this Act.

Indemnity

15. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Exemption

16. Nothing in this Act shall apply to—

(a) any building for residential purposes or solely for agricultural purposes in the *abadi* area of any village as defined in the revenue records;

- (b) the erection or re-erection of a place of worship or a tomb or cenotaph or of a wall enclosing a grave-yard, place of worship, cenotaph or *samadhi* on land which is, at the time of the notification under sub-section (2) of section 4, occupied by or for the purposes of such, place of worship, tomb, *samadhi*, cenotaph or grave-yard;
- (c) excavations (including wells) or other operations made in the ordinary course of agriculture;
- (d) the construction of an unmettalled road intended to give access to land solely for agricultural purposes.

17. (1) The State Government may by notification make rules to carry out the purposes of this Act, subject to the condition of previous publication.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

- (a) the form in which the plans under section 5 are to be displayed and the matters to be contained therein;
- (b) the form in which applications under sub-section (1) of section 7, shall be made or the information to be furnished in such applications;
- (c) the regulation of the laying out of means of access to roads;
- (d) the fees to be charged for the grant and renewal of licences under section 12, and the conditions governing such licences;
- (e) principles and conditions under which application for permission under this Act may be granted or refused.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

34 of 1961
20 of 1958

18. (1) The Talwara Township (Periphery) Control Act, 1961 and the Punjab Nangal Township (Periphery) Control Act, 1958 as amended by Act No. 4 of 1961, in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, are hereby repealed.

Repeal and savings.

31 of 1966

(2) Notwithstanding such repeal anything done, action taken, rules made or notification issued in exercise of the powers conferred by or under the provisions of the Acts so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, rules made or notification issued.

THE SCHEDULE

[See section 3 (10)]

I. TOWNS:

(i) Sundernagar Township.

II. COLONIES:

(i) Pandoh.

(ii) Jarl.

(iii) Seog.

(iv) Sari.

(v) Sansarpur.

(vi) Slaper.

III. DAMS:

(i) Beas Dam.

STATEMENT OF OBJECTS AND REASONS

Land and properties are being acquired in this Pradesh for dams, new colonies/towns and roads to the new colonies/towns etc. Petty business people are trying to erect temporary un-authorised structures within the periphery of such acquired areas, which is likely to create complication at the later stage. At present there is no enactment to check such un-authorised structures in the periphery of the acquired areas where roads, colonies/new towns have been constructed or would be constructed. To check mushroom growth and ribbon-like development along roads of towns, colonies and dams as well as their peripheries it is necessary to enact a legislation for whole of Himachal Pradesh. The Bill seeks to achieve the above object.

SIMLA:
The 12th March, 1975.

DES RAJ MAHAJAN,
Minister-in-charge.

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides payment of compensation and as such there is likely to be some expenditure on this account. The amount of expenditure cannot, however, be anticipated at this stage, as it will be occasional in character. The provision of the Bill will be put into operation through the existing revenue staff except in the case of arbitration cases and as such no expenditure is involved on this item.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 17 of the Bill empowers the State Government to make rules to carry out the purposes of this Bill. The rules shall be laid, after these are made before the Legislative Assembly.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION

(Note 90 of Revenue Department File No. 4-15/62-Rev. II)

The Governor, Himachal Pradesh having been informed of the subject matter of the Himachal Pradesh New Towns (Periphery) Control Bill, 1975, has recommended under Article 207 of the Constitution, the introduction and consideration of the Bill in the Legislative Assembly.

Simla-4, the 26th March, 1975

No. 1-42/75-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, the the Himachal Pradesh Electricity (Duty) Bill, 1975 (Bill No. 23 of 1975), having been introduced in the Legislative Assembly on the 26th March, 1975, is hereby published in the Government Gazette.

S. S. KANWAR,
Secretary.

THE HIMACHAL PRADESH ELECTRICITY (DUTY) BILL, 1975.

(AS INTRODUCED BY THE LEGISLATIVE ASSEMBLY)

A

BILL

to levy duty on the sale or consumption of electric energy in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Electricity (Duty) Act, 1975.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Board" means the Himachal Pradesh State Electricity Board constituted under Chapter III of the Electricity (Supply) Act, 1948;

(b) "consumer" means any person or establishment who uses or consumes energy and includes,—

(i) a domestic consumer i.e. a person or an institution occupying a premises ordinarily used for residential purposes and supplied with energy upto 10 K.W. and shall include charitable institutions like orphanages, hospitals, leprosy homes etc. without any limit of energy supplied to them,

(ii) a commercial consumer i.e. non-residential premises such as business houses, clubs, offices, schools, hospitals, hostels, street lighting and places of worship etc. for use of lights, refrigerators, heaters, fans etc. and fractional horse power motors provided the load of each appliance or equipment used does not exceed 3 K.W.,

(iii) agricultural consumers i.e. a person or an institution using energy for agricultural, horticultural and professions allied and subservient thereto,

(iv) industrial consumer i.e. any person or institution using energy for industrial purpose or purposes subservient to industry, and

(v) person(s) generating energy for their own consumption provided the capacity of generation is 5 K. W. or above;

(c) "energy" means electric energy;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "unit" in relation to the energy means Kilowatt-hour;

- (f) "competent authority" means the authority appointed by the State Government for the purpose of section 7 of this Act; and
 (g) the words and expressions not defined in this Act, but defined in the Indian Electricity Act, 1910, have the same meanings assigned to them under that Act.

9 of 1910

Electricity duty on energy supplied to consumers or licensees by Board.

3. (1) There shall be levied and paid to the State Government on the energy supplied by the Board to a consumer(s), a duty to be called the "electricity duty" in the prescribed manner and computed at the following rates,—

- (i) in case of domestic, commercial and agricultural consumers at a flat rate of 1 paise per unit;
- (ii) in case of industrial consumers at a flat rate of 2 paise per unit; and
- (iii) in case of any other consumer not covered by above at a flat rate of 2 paise per unit;

Provided that if the energy is partly used for category (i) and partly for categories (ii) and (iii) above the highest rate of duty applicable will be levied.

(2) Nothing in sub-section (1) shall apply to the consumption or sale of energy which is,—

- (i) consumed by the State Government; or
- (ii) consumed by or sold to the Government of India for consumption by that Government; or
- (iii) consumed or sold for the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway; or
- (iv) consumed by the Board for generating stations, sub-stations, works directly connected with the generation, transmission and distribution of energy.

(3) For the purpose of computing the electricity duty under this section, the consumption shown by the meters starting after the first meter reading date after the commencement of this Act shall be taken into account.

Collection and payment of electricity duty.

4. The electricity duty shall be collected and paid to the State Government by the Board or a person who generates energy for his own consumption, as the case may be.

Records and returns.

5. (1) If the State Government so directs by a general or special order, the Board or a person generating energy for his own consumption, shall maintain such record in such form and manner as may be prescribed showing,—

- (a) the units of energy generated for supply to the consumer(s) or for self consumption;
- (b) the units of energy supplied to the consumer(s) or consumed by it;
- (c) the amount of the duty payable thereon and the duty paid or recovered under this Act; and

(d) such other particulars as may be prescribed.

(2) The Board, or a person generating energy for his own consumption, who has been directed under sub-section (1) to maintain a record, shall submit such returns in such form and manner and to such authority as may be prescribed.

(3) The amount of energy shall, for purposes of clauses (a) and (b) of sub-section (1), be ascertained in such manner as may be prescribed.

6. (1) The State Government may, by notification in the Official Gazette, appoint Inspecting Officers to inspect records maintained under section 5.

Inspecting officers.

(2) The Inspecting Officers shall perform such duties and exercise such powers as may be prescribed for the purpose of carrying into effect the provisions of this Act and the rules made thereunder.

(3) Every Inspecting Officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

7. (1) If in the opinion of the competent authority the Board, or the person generating energy for his own consumption, as the case may be, evades or attempts to evade the payment of duty, whether by maintaining false records, submitting false returns, concealing the energy supplied or by any other means the Board or such person shall pay by way of penalty in addition to the duty payable under this Act, a sum not exceeding four times the amount of the duty to be determined by the competent authority:

Penal duty to be paid in certain cases.

Provided that no action under this sub-section shall be taken without affording a reasonable opportunity of being heard to the Board or such person.

(2) An appeal shall lie against an order passed under sub-section (1) to such authority, within such period and on payment of such fees, as may be prescribed.

(3) An order passed on appeal under sub-section (2) shall be final and binding.

(4) An order for the payment of any penalty made under this section shall be without prejudice to any prosecution instituted or which may be instituted for an offence under this Act.

8. Any duty under this Act or penalty imposed under section 7 which remains unpaid, whether by a consumer to the Board or by the Board or a person generating energy for his own consumption to the State Government, shall be recoverable as an arrear of land revenue or by deduction from amounts payable by the State Government to the Board or such person.

Recovery of duty.

9. Where a consumer fails to pay the electricity duty to the Board authorised to collect the duty from the consumer(s) under section 4 the Board may exercise the power conferred on a licensee under sub-section (1) of section 24 of the Indian Electricity Act, 1910 for the recovery of any charge or sum due in respect of energy supplied by it.

Power to disconnect supply for non-payment of duty.

10. If any person,—

Penalties.

(a) required by section 5 to keep record or to submit returns fails to

9 of 1910

keep or submit the same in the prescribed form or manner or submits a return which is false; or

- (b) intentionally obstructs an Inspecting Officer appointed under section 6 in the exercise of his powers and duties under this Act and the rules made thereunder; or
- (c) contravenes any other provision of this Act or the rules made thereunder;

he shall be liable, on conviction, to a fine not exceeding one thousand rupees.

Power to revise the rate of electricity duty.

11. The State Government may, by notification revise the rates of electricity duty in respect of consumer(s) as given under section 3 provided that such revised rates shall not exceed the rates mentioned in section 3 by more than 50 %.

Power to make rules.

12. (1) The State Government may by notification make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

- (a) the manner of payment of the duty under section 3;
- (b) the manner of collection and payment to the State Government of the electricity duty by the Board or person(s) generating energy for their own consumption;
- (c) the time and manner of payment of the electricity duty by consumers;
- (d) the powers and duties to be exercised and performed by Inspecting Officers; and
- (e) any other matter for which, in the opinion of the State Government, rules are necessary for giving effect to the provisions of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

13. The Punjab Electricity (Duty) Act, 1958 in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 is hereby repealed:

10 of 1958

Provided that anything done or any action taken or rules made or notification issued in exercise of the powers conferred by or under the provisions of the Act so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day in which such thing was done, action taken, rules made or notification issued.

31 of 1966

STATEMENT OF OBJECTS AND REASONS

At present the Punjab Electricity (duty), Act, 1958, is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and there is no such corresponding law in force in the areas which comprised in Himachal Pradesh immediately before the 1st November 1966, it is, therefore, considered expedient to have a uniform policy by enacting a unified law on the subject throughout the State. Besides this the enactment of the proposed Bill has become necessary for augmenting resources of this Pradesh for speedy execution of various development programmes. The Bill seeks to achieve the aforesaid object.

SIMLA:
The 12th March, 1975

RAM LAL,
Minister-in-charge.

FINANCIAL MEMORANDUM

The levy proposed in clause 3 of the Bill will provide approximately an additional income of Rs. 34 lakhs annually. The approximate recurring expenditure of Rs. 3½ lakhs annually is expected to be incurred for the effective implementation of the provisions of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the the State Government to make rules in respect of the matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Bill. These rules, shall, as soon as may be, after they are made, be laid before the Legislative Assembly.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[M. P. P. and Power Department File No. MPP-A (4)4/75]

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Electricity (duty) Bill, 1975, recommends under Article 207 of the Constitutions of India the introduction and consideration of the Bill in the Legislative Assembly.

